

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,)
Plaintiff,)
-vs-)
JUAN FLORES-REYES,)
Defendant.)
NO. CR-06-2100-WFN-1
ORDER

A first pretrial conference and motion hearing was held July 26, 2006. The Defendant, who is in custody, was present and represented by Alexander Hernandez, III and assisted by Court-appointed interpreter Steve Muzik; Assistant United States Attorney Shawn Anderson represented the Government.

The Court addressed all pending motions. The Defendant requested that a change of plea be set with another judge next week. The Court has reviewed the file and pending motions and is fully informed. This Order is entered to memorialize and supplement the oral rulings of the Court. Accordingly,

IT IS ORDERED that:

1. Defendant's Motion for Discovery, filed July 13, 2006, Ct. Rec. 21, is DENIED AS MOOT. Discovery is being disclosed by the Government on an open-file basis.

24 2. Defendant's Motion to Disclose Evidence Pursuant to FRE 404 and 609, filed
25 July 13, 2006, Ct. Rec. 23, is **DENIED AS MOOT**. The Government has identified 404(b)
26 evidence but knows of no 609 evidence.

1 3. Defendant's Motion to Compel Grand Jury Transcripts, filed July 13, 2006, **Ct.**
2 **Rec. 25**, is **GRANTED**. The Government shall prepare and disclose transcripts of the
3 testimony of grand jury witnesses who will be witnesses at trial pursuant to Rule 6(e)(3)(E)(i)
4 of the Federal Rules of Criminal Procedure. The transcripts shall be disclosed no later than
5 **two weeks before trial**.

6 4. The Court **RESERVES RULING** on Defendant's Motion to Dismiss Indictment,
7 filed July 25, 2006, **Ct. Rec. 31**. The Government has not had an opportunity to respond to
8 this Motion.

9 (a) The Government's response shall be filed and served no later than **August 4,**
10 **2006**.

11 (b) The Defendant's reply, if any, shall be filed and served no later than
12 **August 11, 2006**.

13 The Court will take the matter **UNDER ADVISEMENT** and either issue a written
14 order or set the matter for hearing.

15 5. All time from the filing of Defendant's Motions on July 13, 2006, to the date of the
16 hearing on July 26, 2006 is **EXCLUDED** for speedy trial calculations pursuant to 18 U.S.C.
17 § 3161(h)(1)(F).

18 6. Consideration of Defendant's Motion to Dismiss Indictment will require a
19 continuance of the trial date which is currently set for August 21, 2006.

20 The Court finds that the ends of justice served by the granting of a continuance of
21 the trial in this matter outweigh the best interests of the public and the Defendant in a speedy
22 trial. A trial date of August 21, 2006 would unreasonably deny the parties and the Court
23 adequate time to consider the Defendant's Motion to Dismiss the Indictment which was filed
24 July 25, 2006, two days prior to the hearing, taking into account the exercise of due diligence.

25 7. The original trial date of August 21, 2006, is **STRICKEN and RESET to**
26 **September 11, 2006, at 1:00 p.m., in Yakima, Washington**.

1 8. All time from the trial date of August 21, 2006, to the new trial date of
2 September 11, 2006, is **EXCLUDED** for speedy trial calculations pursuant to 18 U.S.C.
3 § 3161(h)(8)(A).

4 9. The final pretrial conference of August 21, 2006, is **STRICKEN and RESET to**
5 **September 11, 2006, at 11:00 a.m., in Yakima, Washington.**

6 10. Trial briefs, motions in limine, requested voir dire, witness and exhibit lists, and
7 a set of proposed **JOINT JURY INSTRUCTIONS** shall be filed and served on or before
8 **August 28, 2006.**

9 Jury instructions should only address issues that are unique to this case, and shall
10 include instructions regarding the elements of each claim, any necessary definitions and a
11 proposed verdict form.

12 The Joint Proposed Jury Instructions shall include:

13 (a) The instructions on which the parties agree; and

14 (b) Copies of instructions that are disputed (i.e., a copy of each party's proposed
15 version of an instruction upon which they do not agree). All jury instructions from the most
16 current edition of the Ninth Circuit Manual of Model Jury Instructions may be proposed by
17 number. The submission of the Joint Proposed Jury Instructions will satisfy the requirements
18 of LR 51.1(c).

19 On or before **August 28, 2006**, each party shall address any objections they have
20 to instructions proposed by any other party in a memorandum. The parties shall identify the
21 specific portion of any proposed instruction to which they object and shall elaborate the basis
22 for the objection. Objections asserting that an instruction sets forth an incorrect statement of
23 law shall describe the legal authority that supports this objection. Failure to file an objection
24 and supporting argument may be construed as consent to the adoption of an instruction
25 proposed by another party.

1 11. Counsel shall be contacted by Judge Suko's staff regarding scheduling of a change
2 of plea hearing.

3 The District Court Executive is directed to file this Order and provide copies to
4 counsel.

5 **DATED** this 27th day of July, 2006.

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7 07-27

s/ Wm. Fremming Nielsen
WM. FREMMING NIELSEN
SENIOR UNITED STATES DISTRICT JUDGE

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